

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	Case No. 1:20-CR-143
	)	
ZACKARY ELLIS SANDERS,	)	
	)	
<i>Defendant.</i>	)	
_____	)	

**MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO  
DEFENDANT'S FIFTH MOTION TO SUPPRESS**

The United States of America, by and through its attorneys, G. Zachary Terwilliger, U.S. Attorney for the Eastern District of Virginia, William G. Clayman, Special Assistant United States Attorney (LT), and Jay V. Prabhu, Assistant United States Attorney, respectfully requests that, if the Court determines the defendant has shown good cause for filing his fifth motion to suppress over 100 days after the pretrial motions deadline, the Court permit the government to file a response to the defendant's motion [Dkt. Nos. 149 & 150] on or before January 15, 2021, or by a later date the Court finds appropriate. In support thereof, the government states as follows:

1. This case is currently set for jury trial on February 9, 2021, only 41 days from today. Accordingly, the government is presently preparing for a trial involving multiple out-of-state witnesses and victims, all during an unprecedented pandemic.

2. On December 17, 2020, one day before the deadline to file motions *in limine* for the upcoming trial, the defendant filed a motion to suppress the statements he made to law enforcement during the February 2020 search of his home and requested an evidentiary hearing. Dkt. Nos. 149 & 150. Under Local Criminal Rule 47(F)(1), the government's response to this motion is due on or before December 31, 2020.

3. On December 18, 2020, the Court issued an Order to show cause, noting that the defendant's motion to suppress—his fifth thus far—was filed over 100 days after the Court's already extended deadline to file pretrial motions and instructing the defendant to show cause on or before December 28, 2020, as to why he did not file this motion prior to the deadline. Dkt. No. 152.

4. On December 23, 2020, the defendant filed a response to the Court's Order, arguing that good cause existed to excuse his failure to comply with the Court's pretrial motions deadline. Dkt. No. 177. On December 29, 2020, the government submitted its position on the Court's Order and the defendant's response, noting that the defendant had all the evidence and information needed to file his untimely motion months before the pretrial motions deadline and asserting that, given the circumstances of this case, the defendant could not show good cause for his untimely filing under Fed. R. Crim. P. 12(c)(3) and relevant precedent. Dkt. No. 179. The defendant's motion should therefore be dismissed as untimely.

5. If the Court concludes that the defendant has demonstrated good cause for his untimely filing such that it should consider his motion, however, the government respectfully requests that the Court permit the government to file its response to the defendant's fifth motion to suppress on or before January 15, 2021, at the earliest. The government submits that this extension is both necessary and appropriate. As previously noted, the government is presently engaged in trial preparation and is preparing responses and objections to various trial-related filings consistent with the Court's November 9, 2020, scheduling Order. Dkt. No. 131. Accordingly, the government will require additional time in order to balance its need to timely respond to these trial-related filings and prepare for trial with the potential need to respond to the defendant's untimely motion.

WHEREFORE, the United States respectfully requests that, if the Court determines that the defendant has shown good cause for filing his fifth motion to suppress over 100 days after the pretrial motions deadline, the government be permitted to file a response to the defendant's motion on or before January 15, 2021, or by a later date the Court finds appropriate.

Respectfully submitted,

G. Zachary Terwilliger  
United States Attorney

/s/

---

William G. Clayman  
Special Assistant United States Attorney (LT)  
Jay V. Prabhu  
Assistant United States Attorney  
United States Attorney's Office  
Eastern District of Virginia  
2100 Jamieson Avenue  
Alexandria, Virginia 22314  
(703) 299-3700  
Email: [william.g.clayman@usdoj.gov](mailto:william.g.clayman@usdoj.gov)

